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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,609	07/19/2006	Akihiko Fujii	293709US0PCT	5969

22850 7590 01/05/2009

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EXAMINER	
KING, FELICIA C	

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
01/05/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/586,609	FUJII ET AL.	
	Examiner	Art Unit	
	FELICIA C. KING	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/19/06, 9/29/06, 6/28/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 16 and 17 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, claims 16 and 17 have not been further treated on the merits.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slaga et al. (Pub No. 2004/0005398) in view of Stelkens (GB 354,942).

6. **Regarding Claim 1: Slaga** discloses a coffee composition having 0.6% chlorogenic acid [page.2, para 0023]] but does not explicitly disclose a coffee composition having less than .1 wt.% HHQ. However, Stelkens discloses a coffee composition where poisonous substances are removed [page 1, lines 12-26 and Page 1, lines 95-106]. The coffee grounds in Stelkens are treated using a very similar process as in the instant specification [See Application 10/586609 Example 7] and as such would be expected to produce a coffee composition having significantly reduced levels/removal of the poisonous substance HHQ.

7. At the time of the invention, it would have been obvious to one of ordinary skill in that art having the teachings of Slaga and Stelkens before him or her to modify the coffee composition of Slaga to include a decreased level of HHQ because the treatment of coffee grounds with activated carbon would result in a coffee product having significantly reduced levels/removal of poisonous substances such as HHQ and to continue to reduce the levels of undesirable chemicals such as HHQ in coffee by using the activated carbon method, until the desired level/removal of the poisonous substance was obtained. Stelkens' removal of poisonous and bitter substances is in line with

Slaga's art which seeks to provide for a more healthful coffee product which contains less toxic compounds [Slaga pg. 1, para 0018].

8. **Regarding Claim 2:** Slaga and Stelkens disclose a coffee composition treated in a similar manner as described above and as such, it would have been obvious that the coffee composition would have similar properties when analyzed by HPLC as the coffee composition in the instant claim.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slaga et al. (Pub No. 2004/0005398) in view of Stelkens (GB 354,942) and as evidenced by Suzuki et al. (EP 1186294).

10. Slaga and Stelkens disclose as discussed above but do not disclose the composition as hypertension alleviating. However, Suzuki teaches that chlorogenic acid is known to alleviate hypertension [para 0013].

11. At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Slaga, Stelkens, and Suzuki before him or her to incorporate chlorogenic acid as a hypertension alleviating agent because in addition to chlorogenic acid's medicinal benefits to the gastrointestinal tract [Slaga page 1, para 0007], it is known that food or beverages associated with hypertension such as coffee can be supplemented with chlorogenic acid to inhibitor reduce hypertensive effects [Suzuki para 0033].

12. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slaga et al. (Pub No. 2004/0005398) in view of Stelkens (GB 354,942) and

Kiefer (U.S. Patent Number 5,588,742) and as evidenced by Suzuki et al (EP 1186294).

13. Slaga and Stelkens disclose the coffee composition as discussed above, Suzuki teaches as discussed above but they do not disclose labeling the composition. However, Kiefer discloses labeling products to indicate their nutritional content [col. 1, lines 51-67].

14. At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Slaga, Stelkens, Suzuki and Kiefer before him or her to label the coffee product described by the prior art because it enables the manufacturer to communicate to the consumer ways in which the product is not only enjoyable as a beverage but as a healthier alternative to traditional coffee [Kiefer col. 4, lines 48-62, describing how labels impart information].

15. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slaga et al. (Pub No. 2004/0005398) in view of Stelkens (GB 354,942) and Schlichter (U.S. Patent Number 3,615,666).

16. Regarding Claim 6: Slaga and Stelkens disclose a coffee composition treated in a similar manner as discussed above but do not disclose a soluble coffee composition. However, Schlichter discloses a soluble coffee composition [col. 1, lines 4-9].

17. At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Slaga, Stelkens, and Schlichter before him or her to modify the coffee composition to include a soluble coffee composition form because the

consumer benefits from the ease of making a cup of coffee since making a drinkable beverage out of soluble coffee only requires the addition of hot water to dry coffee product in a cup/mug.

18. Regarding Claim 7: Slaga, Stelkens, and Schlichter disclose as discussed above and as such, it would have been obvious that the coffee composition would have similar properties when analyzed by HPLC as the coffee composition in the instant claim.

19. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slaga et al. (Pub No. 2004/0005398) in view of Stelkens (GB 354,942) and Schlichter (U.S. Patent Number 3,615,666), and as evidenced by Suzuki et al. (EP 1186294).

20. Slaga and Stelkens disclose the coffee composition as discussed above, Suzuki teaches that chlorogenic acid alleviates hypertension as discussed above and Schlichter teaches soluble coffee as disclosed above.

21. At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Slaga, Stelkens, and Schlichter before him or her to modify the coffee composition to include a soluble coffee composition form because the consumer benefits from the ease of making a cup of coffee since making a drinkable beverage out of soluble coffee only requires the addition of hot water to dry coffee product in a cup/mug.

22. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slaga et al. (Pub No. 2004/0005398) in view of Stelkens (GB 354,942),

Schlichter (U.S. Patent Number 3,615,666), and Kiefer (U.S. Patent Number 5,588,742) and as evidenced by Suzuki et al (EP 1186294).

23. Slaga and Stelkens disclose the coffee composition as discussed above, Suzuki teaches as discussed above, Schlichter discloses soluble coffee as discussed above, and Kiefer discloses labeling products to indicate their nutritional content [col. 1, lines 51-67].

24. At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Slaga, Stelkens, and Kiefer before him or her to label the coffee product described by the prior art because it enables the manufacturer to communicate to the consumer ways in which the product is not only enjoyable as a beverage but as a healthier alternative to traditional coffee [Kiefer col. 4, lines 48-62, describing how labels impart information].

25. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slaga et al. (Pub No. 2004/0005398) in view of Stelkens (GB 354,942), and Behrman (US Patent Number 2,430,663).

26. Slaga and Stelkens disclose the coffee composition as discussed above but does not disclose it as packaged. However, Behrman discloses a coffee composition in an oxygen impermeable package [col.1, lines 6-10, 14-17, 36-38].

27. At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Slaga, Stelkens and Behrman before him or her to modify the coffee composition of Stelkens to include an oxygen impermeable packaging

mechanism because it maintains the qualities and flavors of coffee [Behrman col.1, lines 24-27].

28. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slaga et al. (Pub No. 2004/0005398) in view of Stelkens (GB 354,942), and Behrman (US Patent Number 2,430,663) and as evidenced by Suzuki et al (EP 1186294).

29. Slaga, Stelkens disclose as discussed, Suzuki teaches that chlorogenic acid alleviates hypertension as discussed above and Behrman teaches a packaged coffee product as disclosed above.

30. At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Slaga, Stelkens, Behrman and Suzuki to package a coffee product in order to make it available to consumers and to maintain the qualities and flavors of coffee [Behrman col.1, lines 24-27].

31. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slaga et al. (Pub No. 2004/0005398) in view of Stelkens (GB 354,942), and Behrman (US Patent Number 2,430,663), and Kiefer (U.S. Patent Number 5,588,742) and as evidenced by Suzuki et al (EP 1186294).

32. Slaga and Stelkens disclose a coffee product a discussed above, Suzuki discloses chlorogenic acid's antihypertensive effects as discussed above, Behrman discloses a packaged product as discussed above, and Kiefer discloses labeling the product as discussed above.

33. At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Slaga, Stelkens, Suzuki, Behrman, and Kiefer before him or her to include on a packaged beverage where the beverage has antihypertensive properties to place a label on the package to indicate that it has hypertensive properties in order to communicate this feature to consumers.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FELICIA C. KING whose telephone number is (571)270-3733. The examiner can normally be reached on Mon- Thu 7:30 a.m. - 5:00 p.m.; Fri 7:30 a.m. - 4:00 p.m. alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FELICIA C KING/
Examiner, Art Unit 1794

/Jennifer McNeil/
Supervisory Patent Examiner, Art Unit 1794